

PETITION FOR SPECIAL EXCEPTION 84-65-X

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for 2. farm machinery sales, storage and service; feed or grain mills or driers; fertilizer sales or storage; Farmers Co-op roadside stand including sales of farm produce and nursery products.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
Address
City and State

Legal Owner(s):
RAYMOND BIENSACH
(Type or Print Name)
Signature
ETHEL BIENSACH
(Type or Print Name)
Signature
Address
City and State

Attorney for Petitioner:
Robert J. Romadka/John B. Gontrum
(Type or Print Name)
Signature
Address
City and State
Attorney's Telephone No.: 686-8274

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Md. 21221
Address
Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 1983, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the _____ day of _____, 1983, at 10:30 o'clock A.M.

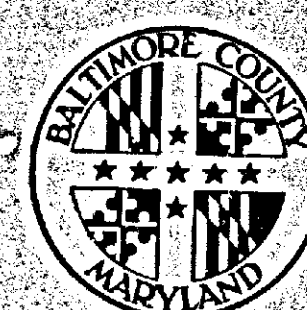
Bill Jahn
Zoning Commissioner of Baltimore County.

X.C.O.-No. 1 (over)

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER
NE/S of Ebenezer Rd., 350' NW of
Bird River Rd., 15th District : OF BALTIMORE COUNTY
RAYMOND BIENSACH, et ux, : Case No. 84-65-X
Petitioners

ORDER TO ENTER APPEARANCE

Mr. Commissioners

Pursuant to the authority contained in Section 524.1 of the Baltimore County

Charter, I hereby enter my appearance in this proceeding. You are requested to notify

me of any hearing date or dates which may be now or hereafter designated therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2138

I HEREBY CERTIFY that on this 8th day of August, 1983, a copy of the foregoing

Order was mailed to Robert J. Romadka, Esquire, and John B. Gontrum, Esquire, 809 Eastern Boulevard, Baltimore, MD 21221, Attorneys for Petitioners.

John W. Hession, III
John W. Hession, III

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE THE ZONING COMMISSIONER
NE/S of Ebenezer Rd., 350' NW of
Bird River Rd., 15th District : OF BALTIMORE COUNTY
RAYMOND BIENSACH, et ux, : Case No. 84-65-X
Petitioners

ORDER FOR APPEAL

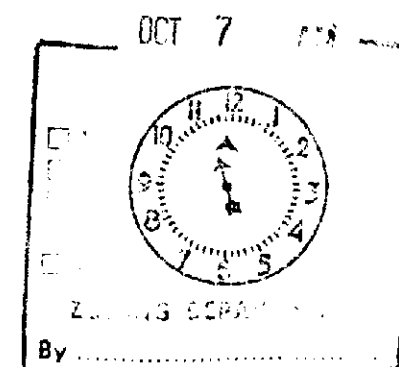
Mr. Commissioner:

Please note an appeal from your decision in the above-entitled case, under date of September 7, 1983, to the County Board of Appeals and forward all papers in connection therewith to said Board for hearing.

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
John W. Hession, III
John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2138

I HEREBY CERTIFY that on this 7th day of October, 1983, a copy of the foregoing

Order for Appeal was mailed to Robert J. Romadka, Esquire and John B. Gontrum, Esquire, Germania Federal Building, 809 Eastern Boulevard, Baltimore, MD 21221.



John W. Hession, III
John W. Hession, III

IN THE MATTER
OF THE APPLICATION OF
RAYMOND BIENSACH
FOR SPECIAL EXCEPTION FOR
AGRICULTURAL SUPPORT USES, ETC.
NE/S OF EBENEZER ROAD 350'
NW OF BIRD RIVER ROAD
15th DISTRICT

OFFICE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
NO. 84-65-X

ORDER OF DISMISSAL

Petition of Raymond Biensach for special exception for Agricultural Support Uses, etc. on property located on the northeast side of Ebenezer Road 350 feet northwest of Bird River Road, in the Fifteenth Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of an Order of Dismissal of Appeal filed January 26, 1984, (copy of which is attached hereto and made a part hereof) from People's Counsel for Baltimore County, Appellant in the above entitled matter; and

WHEREAS, the said Appellant requests that the appeal filed in this matter be dismissed as of January 26, 1984.

IT IS HEREBY ORDERED, this 31st day of January, 1984, that said appeal be and the same is DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William R. Evans
William R. Evans, Acting Chairman

Patricia Phipps
Patricia Phipps

Diana R. Vincent
Diana R. Vincent

RE: PETITION FOR SPECIAL EXCEPTION: BEFORE THE COUNTY BOARD OF APPEALS
NE/S of Ebenezer Rd., 350' NW
of Bird River Rd., 15th Dist. : OF BALTIMORE COUNTY
RAYMOND BIENSACH, et ux, : Zoning Case No. 84-65-X
Petitioners

NOTICE OF DISMISSAL

Please dismiss the above-entitled case, because it is no longer in the public interest to pursue this appeal. The reasons for the dismissal were given in the letters dated December 16, 1983 and January 11, 1984 of counsel for the parties, which have been included in the Board of Appeals' file.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, MD 21204
494-2138

I HEREBY CERTIFY that on this 25th day of January, 1984, a copy of the foregoing Notice of Dismissal was mailed to John B. Gontrum, Esquire, Romadka, Gontrum, Hennegan & Foos, Germania Federal Building, 809 Eastern Blvd., Essex, MD 21221.

Peter Max Zimmerman
Peter Max Zimmerman

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

August 22, 1983

Robert J. Romadka, Esquire
John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

RE: Item No. 254 - Case No. 84-65-X
Petitioner - Raymond Biensach, et ux
Special Exception Petition

Dear Sirs:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

In view of your client's proposal to utilize the subject property for a number of uses, this hearing is required.

As I explained to Mr. Gontrum, the parking areas must be provided on the site and said areas should be paved. In addition, a profile of the existing sign, located along Ebenezer Road, should be provided to determine if it complies with Section 413.1c. of the zoning regulations.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

Nicholas B. Commodari
NICHOLAS B. COMMODARI, Chairman
Zoning Plans Advisory Committee

NBC:bsc
Enclosures
cc: Frank S. Lee
1277 Neighbors Avenue
Baltimore, Md. 21237



BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

M-SE Key Sheet
26 - 29 NE 40 Pos. Sheets
NE 7 & 8 J Topo
83 Topo Map

HARRY J. PISTEL, P.E.
DIRECTOR

July 1, 1983

Mr. William E. Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #254 (1982-1983)
Property Owner: Raymond & Ethel Biensach
N/S Ebenezer Road 350' N/W from centerline
of Bird River Road
Acres: 26.80 District: 15th

Dear Mr. Hammond:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Ebenezer Road, an existing public road, formerly State Highway Md. 149, is proposed to be further improved in the future as a 50-foot closed section roadway on a 70-foot right-of-way.

Storm Drains:

A tributary to Windlass Run traverses this property.

Open stream drainage requires a drainage reservation or easement of sufficient width to cover the flood plain of a 100-year design storm. However, a minimum width of 50 feet is required.

Water and Sanitary Sewer:

There is a 16-inch public water main in Ebenezer Road along the frontage of this property.

This property is within the Baltimore County Metropolitan District and beyond the Comprehensive Metropolitan Facilities Planning Area. Baltimore County Water Supply and Sewerage Plan W and S-17B, as amended through January 1982, indicate "No Planned Service" for the general area of this property.

Very truly yours,

Robert A. Martin
ROBERT A. MARTIN, P.E., Chief
Bureau of Public Services

RAM:EM:FW:rs

JUN 21 1984

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations



BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-5350

STEPHEN E. COLLINS
DIRECTOR

July 28, 1983

Mr. William Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 254 -ZAC- Meeting of June 7, 1983
Property Owner: Raymond & Ethel Bienschach
Location: NE/S Ebenezer Road 350' N/W from centerline of Bird River Road
Existing Zoning: R.C.2
Proposed Zoning: SEE ZAC SUMMARY OF JUNE 7, 1983

Acres:
District:

Dear Mr. Hammond:

This site should have a standard commercial entrance and driveway.

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineering Assoc. II

MSF/ccm

July 5, 1983
Date

BALTIMORE COUNTY DEPARTMENT OF HEALTH

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Zoning Item # 254, Zoning Advisory Committee Meeting of June 7, 1983

Property Owner: Raymond & Ethel Bienschach

Location: NE/S Ebenezer Road District 15TH

Water Supply: public Sewage Disposal: private

COMMENTS ARE AS FOLLOWS:

- () Prior to approval of a Building Permit for construction, renovation and/or installation of equipment for any existing or proposed food service facility, complete plans and specifications must be submitted to the Plans Review Section, Environmental Support Services, for final review and approval.
- () Prior to new installation/s of fuel burning equipment, the owner should contact the Division of Air Pollution Control, 494-3775, to obtain requirements for such installation/s before work begins.
- () A permit to construct from the Division of Air Pollution Control is required for such items as spray paint processes, underground gasoline storage tank/s (5,000 gallons or more) and any other equipment or process which exhausts into the atmosphere.
- () A permit to construct from the Division of Air Pollution Control is required for any charbroiler operation which has a total cooking surface area of five (5) square feet or more.
- () Prior to approval of a Building Permit Application for renovations to existing or construction of new health care facilities, complete plans and specifications of the building, food service area and type of equipment to be used for the food service operation must be submitted to the Plans Review and Approval Section, Division of Engineering and Maintenance, State Department of Health and Mental Hygiene for review and approval.
- () Prior to any new construction or substantial alteration of public swimming pool, wading pool, bathroom, saunas, whirlpools, hot tubs, water and sewerage facilities or other appurtenances pertaining to health and safety; two (2) copies of plans and specifications must be submitted to the Baltimore County Department of Health for review and approval. For more complete information, contact the Recreational Hygiene Section, Division of Environmental Support Services.
- () Prior to approval for a nursery school, owner or applicant must comply with all Baltimore County regulations. For more complete information, contact the Division of Maternal and Child Health.
- () If lubrication work and oil changes are performed at this location, the method providing for the elimination of waste oil must be in accordance with Water Resources Administration requirements.

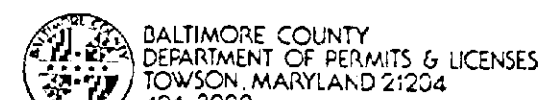
SS 20 1082 (1)

Zoning Item # 254
Page 2

- () Any existing underground storage tanks containing gasoline, waste oil, solvents, etc., must have the contents removed by a licensed hauler and either be removed from the property or properly backfilled.
- () Soil percolation tests have been conducted.
() The results are valid until:
Revised plans must be submitted prior to approval of the percolation tests.
- () Prior to occupancy approval, the potability of the water supply must be verified by collection of bacteriological and chemical water samples.
- () In accordance with Section 13-117 of the Baltimore County Code, the water well yield test:
() shall be valid until:
() is not acceptable and must be retested. This must be accomplished prior to conveyance of property or approval of Building Permit Applications.
- () All roads and parking areas should be surfaced with a dustless, bonding material.
- () No health hazards are anticipated.
- () Others: This site is presently served by public water and a private septic system which appears to be functioning satisfactorily. This system serves the private residence only. No additional service is proposed for the retail areas, which are presently in use or planned.

John J. Forrest
John J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

SS 20 1080 (2)



BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3900

TED ZALESKI, JR.
DIRECTOR

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item # 254, Zoning Advisory Committee Meeting June 7, 1983 are as follows:

Property Owner: Raymond & Ethel Bienschach
Location: 1111 West Chesapeake Ave. 350' N/W from centerline of Bird River Road
Existing Zoning: R.C. 2
Proposed Zoning: Special Exception for farm machinery sales, storage & service, feed or grain mills or driers, fertilizer sales or storage, farmers co-op roadside stand including farm produce and nursery products.
Acres: 2.50
District: 15th

The items checked below are applicable:

- (A) All structure shall conform to the Baltimore County Building Code 1981/ Council Bill 1-82 State of Maryland Code for the Handicapped and Aged; and other applicable Codes.
- B. A building and other miscellaneous permits shall be required before beginning construction.
- C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required.
- D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- E. An exterior wall erected within 6'0" of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'-0" of lot lines. A firewall is required if construction is on the lot line, see Table 101, line 2, Section 101.7 and Table 102.
- F. Requested variance conflicts with the Baltimore County Building Code, Section/s.
- (C) A change of occupancy shall be applied for along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed complies with the height/area requirements of Table 505 and the required construction classification of Table 101.
- (G) Comments: Buildings used for sales shall be classified as mercantile (Use Group M) and shall meet the Building Code, Fire & Life Safety requirements for that use. Buildings used for storage shall be classified as S-1 moderate hazard storage and shall comply with the Code for that use. The existing use is Residential (farm buildings). Other uses shall be classified as to their hazards. Show notes: These comments reflect only on the information provided by the drawings. Handicapped Code submitted to the office of Planning and Zoning and are not intended to compliance on plans. If desired, additional information may be obtained by visiting Room #122 (Plans Review) at 111 West Chesapeake Ave., 21204.

Very truly yours,
Charles E. Dunbar
Charles E. Dunbar, Chief
Plans Review

020177J
PUGH 01-82

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent

Towson, Maryland - 21204

Date: June 7, 1983

Mr. William E. Hammond
Zoning Commissioner
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Z.A.C. Meeting of: June 7, 1983

RE: Item No. 254, 255, 256, 257
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Hammond:

All of the above have no adverse effect on student population.

Very truly yours,
Wm. Nick Petrovich
Wm. Nick Petrovich, Assistant
Department of Planning

WNP/bp

IN RE: PETITION SPECIAL EXCEPTION
NE/S of Ebenezer Road, 350'
NW of Bird River Road -
15th Election District
Raymond Bienschach, et ux
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 64-65-X

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special exception for agricultural support uses, i.e., to have farm machinery sales, storage and service; feed or grain mills or driers; fertilizer sales or storage; a farmers' co-op roadside stand including sales of farm produce and nursery products. The proposed uses would be established on their property which is zoned R.C.2, and are more fully described on their site plan introduced and accepted as Petitioners' Exhibit 1.

The Petitioner Raymond Bienschach appeared, represented by counsel, and testified. Also testifying was Frank S. Lee, the Petitioners' Surveyor. There were no Protestants.

The Petitioner testified that he has lived on the property for 12 years and his wife all her life. The property consists of 26.8 acres, more or less, and he is a farmer. He requests the special exception because there are no other agricultural support businesses in the area, and that there is a need for such a business. His business, he projects, will primarily benefit the farmers in the area although he does want drive-in business from the general public off Ebenezer Road, where the only entrance to the farm and his proposed business is located. Although the plan, Petitioners' Exhibit 1, does specifically delineate buildings and what projected for each building, it is possible that it will be necessary to shift uses from one building to another. There are three existing buildings proposed for use, and one building proposed to be built, which would be for the farmers' co-op stand.

Entrance to the proposed business would be from Ebenezer Road by a driveway of approximately 400 feet in length to a parking area where the buildings are. The driveway and the parking area are comprised of crusher run stones and pebbles. The driveway is 24 feet wide, and the parking area as presently arranged allows for approximately 20 cars to be parked, but this will be expanded to allow for 35 spaces. The Petitioners live on the property and will continue to do so.

The Petitioners request approval to perform the aforesaid activities on their property under Sections 1A01.2C.8. and 24.a., b., and c, and pursuant to Section 502.1, of the Baltimore County Zoning Regulations (BCZR). There is no request made for any variance, and indeed testimony indicated that none is required.

It is clear that the zoning regulations permit the uses requested by the Petitioners in an R.C.2 Zone by special exception. It is equally clear that the proposed uses would not be detrimental to the primary agricultural uses in the vicinity of the proposed business. Therefore, it must first be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioners, and second, whether the existing driveway and parking area satisfy Section 409.2b.(6) and Section 409.2c.(2), BCZR.

After reviewing all of the testimony and evidence presented, it appears that the special exception as applied for by the Petitioners should be granted, with certain restrictions as more fully described below.

There is, of course, a strong presumption of the correctness of original zoning of comprehensive zoning. See *Howard County v. Dorsey*, 438 A2d 1339 (1982). There exists a presumption of validity that must be accepted. See *Johnson and Viles v. Dipeite*, 448 A2d 1271 (R.I. 1982). The County Council has found it necessary to legislate the permitted uses, either as a matter of right or by special exception, in particular zones within the County, and of those uses permitted by special exception in an R.C.2 Zone are those delineated in Section 1A01.2C., and which includes those requests made by the Petitioners. When interpreting zoning ordinance

ORDER RECEIVED FOR FILING
DATE: July 3, 1983
BY: [Signature]

provisions, restrictive language therein contained must be strictly construed so as to allow the landowner the least restrictive use of his property. See Lake Adventure, Inc. v. Zoning Hearing Bd. of Dingman Township, 440 A2d 1284 (Pa. 1982). When the language of a zoning ordinance is clear and certain, there is nothing left for interpretation and the ordinance must be interpreted literally. See Mongony v. Bevilacqua, 432 A2d 661 (R.I. 1981).

The special exception use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore valid. The special exception use is a valid zoning mechanism that delegates...a limited authority to allow enumerated uses which the legislature has determined to be permissible any fact or circumstance negating the presumption. The duties given...are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the plan.

See Schultz v. Pritts, 432 A2d 1319 (1981).

The Petitioners had the burden of adducing testimony and evidence which would show that the proposed uses meet the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioners have shown that the proposed uses would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest. The facts and circumstances of the uses proposed by the Petitioners do not show that the proposed uses at the particular location described by Petitioners' Exhibit 1 would have any adverse impact above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. Schultz, supra.

The proposed uses will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of the zoning regulations.

- 3 -

It must now be determined whether Section 409.2b.(6) and Section 409.2c.(2) are being complied with by the Petitioners. Section 409.2b.(6) requires one parking space for each 200 square feet of total floor area where the buildings are devoted to retail trade. It is obvious from the totality of the testimony, and indeed there is acquiescence to, that the proposed uses are for the purposes of retail trade. The existing buildings plus the proposed new building, according to Petitioners' Exhibit 1, would total 4,905 square feet of total floor area. Whether all the buildings would be devoted to retail trade seems not to have been determined by the Petitioners. Testimony indicated that two of the existing buildings would be utilized for storage only, and one for sales and open to public access. It seems clear from testimony that all of the buildings would be used to further or complement the business proposed. In any event, there is a sufficient parking area to accommodate up to 35 cars, which would be more than necessary to meet the requirements established by Section 409.2b.(6). The Petitioner testified that he intends to expand the existing parking area to allow for the 35 spaces, which could be done easily.

The only question left to be determined would be how best to meet the demand set down in Section 409.2c.(2) that any parking or storage space for more than five vehicles be durable and dustless.

The Petitioner testified, and his counsel proffered, that the existing driveway and parking area meet these criteria. They ask that no further demand be made, specifically that a blacktop or macadam top not be required as, in their opinion, neither is necessary. The Petitioner states that his driveway and parking area are durable and dustless, and that there is proper drainage. Certainly, testimony and evidence establishes the durability of the present driveway and parking area. It is equally uncontested that the drainage is both appropriate and acceptable. The Petitioner takes care to insure the acceptability of the roadbed. The issue,

- 4 -

therefore, is whether the present roadbed is sufficient to meet the "dustless" requirement. The Petitioner states it is dustless, and counsel, who have driven the roadbed, support that contention.

However, the very nature of the Petitioners' proposed uses will cause traffic to increase as more people avail themselves of the services rendered. Such increased use requires a higher standard of road and parking area than otherwise. Perhaps counsel is correct when he argues that a blacktop or macadam drive would present a "commercial" image in contrast to the "agricultural" image projected by the Petitioners, sales when compared with the "public" factor as directed by Section 502.1. The public has a right to ingress and egress a place of business in facile fashion. If the Petitioners are concerned about speed, it would seem reasonable to place speed signs at appropriate places, or speed bumps. As strong and as durable a road that crusher run stones and pebbles make, the character of its "dustlessness" remains in doubt. The public is entitled to more and the regulations require more. Counsel may well be right when he characterizes blacktop or macadam as "dressing", that neither strengthen the road. Counsel argues that crusher run roads compact like cement, but this would depend on the thickness laid and it continuing upkeep.

Inasmuch as the advertisement, posting of property, and public hearing held, and appearing that by reason of the requirements of Section 502.1 of the zoning regulations having been met and the health, safety, and general welfare of the community not being adversely affected, the special exception should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 7th day of September, 1983, that the Petition for Special Exception for agricultural support uses as aforesaid, in accordance with the site plan as introduced and accepted into evidence as Petitioners' Exhibit 1, is hereby GRANTED.

- 5 -

from and after the date of this Order, subject, however, to the following restrictions:

1. The Petitioners may apply for their building permit, and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that their proceeding at this time is at their own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. The Petitioners, if deviating from the specified building uses as shown on Petitioners' Exhibit 1, must comply with any and all restrictions as set by the County Department of Permits and Licenses, but cannot create or establish any uses not aforesaid described herein.
3. The Petitioners must provide a parking area sufficient for at least 25 vehicles.
4. The Petitioners are required to provide the width access from Ebenezer Road as shown on Petitioners' Exhibit 1, and comply with Section 413.1c., BCZR, as to their sign located at said location as shown on said Exhibit.
5. The Petitioners are required to pave their driveway and parking area and maintain them with:
 - a. a bituminous concrete surface over a suitable base, or
 - b. a Portland-cement concrete surface over a suitable base, or
 - c. two or more applications of bituminous surface over a suitable base,and such application must be finished within one year of the date of this Order.

[Signature]
Zoning Commissioner of
Baltimore County

- 6 -

Phone: 687-6922

FRANK S. LEE

Registered Land Surveyor

1277 NEIGHBORS AVE. - BALTIMORE, MD. 21237

April 22, 1983

No. 6150 Ebenezer Road
15th District Baltimore County, Maryland

Beginning for the same in the center of Ebenezer Road at the distance of 350 feet measured northwesterly from the intersection of the center of Ebenezer and Bird River Roads, thence running and binding on the center of Ebenezer Road by a line curving to the right with a radius of 2440 feet for a distance of 139.45 feet, thence leaving Ebenezer Road for lines of division as follows: North 46 degrees 42 minutes East 262.52 feet, North 43 degrees 18 minutes West 75 feet, North 46 degrees 42 minutes East 82.22 feet, North 43 degrees 42 minutes West 221.45 feet, North 46 degrees 53 minutes East 335.03 feet, North 6 degrees 07 minutes West 359.65 feet, North 22 degrees 58 minutes East 343.75 feet, North 19 degrees 49 minutes East 346.95 feet, South 79 degrees 10 minutes East 90.74 feet, North 9 degrees 56 minutes East 526.13 feet, North 6 degrees 34 minutes 40 seconds East 424.20 feet, South 81 degrees 23 minutes 47 seconds East 511.39 feet, South 5 degrees 01 minute 49 seconds West 1318.49 feet, North 79 degrees 52 minutes 24 seconds West 504.73 feet, South 5 degrees 22 minutes 36 seconds West 1353 feet and South 43 degrees 33 minutes 50 seconds West 653.92 feet to the place of beginning.

Containing 26.80 acres of land more or less.



PETITION FOR SPECIAL EXCEPTION

15th Election District

ZONING: Petition for Special Exception

LOCATION: Northeast side of Ebenezer Road, 350 ft. Northwest of Bird River Road

DATE & TIME: Wednesday, August 31, 1983 at 10:30 A.M.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Exception for agricultural support uses, farm machinery sales, storage and service, feed or grain mills or driers, fertilizer sales or storage, farmers' co-op roadside stand including sales of farm produce and nursery products

All that parcel of land in the Fifteenth District of Baltimore County

Being the property of Raymond Bienschach, et ux, as shown on plat plan filed with the Zoning Department.

Hearing Date: Wednesday, August 31, 1983 at 10:30 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

Baltimore County, Maryland

PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III
People's Counsel
PETER MAX ZIMMERMAN
Deputy People's Counsel

Arnold Jablon, Esquire
Zoning Commissioner
and
James E. Dyer, Zoning Supervisor
County Office Building
Towson, Maryland 21204

RE: Raymond Bienschach, et ux, Petitioners
Zoning Case No. 84-65-X (Item 254)

Messrs. Jablon and Dyer:

An appeal was filed by our office in the above-entitled case. The parties have now reached agreement allowing the proposed property use to go forward subject to the conditions outlined in the letter dated December 16, 1983 from John B. Gontrum, Petitioners' Attorney, to John W. Hessian, III. A copy of that letter is attached.

We ask that this letter be placed in the official zoning file. As noted, the conditions to which the Petitioners agree involve a limitation of 750 square feet floor area for the roadside stand and compliance with any zoning regulations resulting or following the current study on roadside cooperative stands. Thus, any new regulations would be enforced.

I trust that this arrangement is acceptable also to your office. Unless you indicate otherwise, we shall so assume and proceed to dismiss the pending appeal within ten days.

Very truly yours,
Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

Enclosure

cc: John B. Gontrum, Esquire
County Board of Appeals

PMZ:sh

MICROFILMED

LAW FIRM

Romacka, Gontrum, Hennegan & Pao

GERMANIA FEDERAL BUILDING
800 EASTERN BOULEVARD
BALTIMORE, MARYLAND 21201
TELEPHONE (410) 586-8814

December 16, 1983

BY COUNSEL
ALFRED M. WALPERT

ROBERT J. ROMACKA
JOHN B. GONTRUM
JOHN B. HENNEGAN
CHARLES E. PAO, III
JOHN W. PINEGAN

John W. Hessian, III
People's Counsel for Balto. County
Room 223, Court House
Towson, Maryland 21204

Re: Raymond Bienschach, et ux
Case No. 84-65-X

Dear Mr. Hessian:

Pursuant to our office's phone conversations with you, we wish to state our agreement with respect to the use of the farmer's roadside cooperative stand located at 6150 Ebenezer Road.

The roadside stand shall occupy no more than 750 sq. ft. and will be used in total compliance not only with the zoning regulations as they stand today, but also in compliance with whatever modifications may result from the current study on roadside cooperative stands. Mr. Bienschach is hereby binding himself to use his stand in compliance with the regulations, not only as they exist now, but as they may hereinafter be enacted. It is our understanding that given this agreement you will proceed to drop the appeal with respect to Mr. Bienschach's special exception.

Thank you for your consideration and cooperation.

Very truly yours,
John B. Gontrum
John B. Gontrum

JBG:pr

Consented to:

Raymond Bienschach
Raymond Bienschach

MICROFILMED



ARNOLD JABLON
ZONING COMMISSIONER

October 28, 1983

Robert J. Romadka, Esquire
John B. Contrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

Re: Petition for Special Exception
NE/S of Ebenezer Rd., 350' NW
of Bird River Rd.
Raymond Biensach, et ux - Petitioners
Case No. 84-65-X

Dear Sirs:

Please be advised that an appeal has been filed by John W. Hessian, III, People's Counsel for Baltimore County, from the decision rendered by the Zoning Commissioner of Baltimore County, in the above-referenced matter.

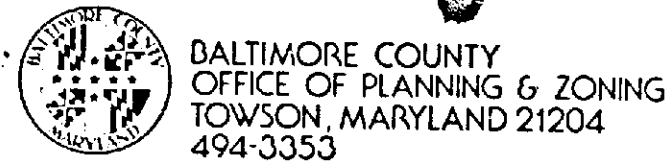
You will be notified of the date and time of the appeal hearing when it is scheduled by the County Board of Appeals.

Very truly yours,

Arnold Jablon
Arnold Jablon
Zoning Commissioner

AJ:aj

cc: John W. Hessian, III, Esquire
People's Counsel



ARNOLD JABLON
ZONING COMMISSIONER

September 7, 1983

Robert J. Romadka, Esquire and
John B. Contrum, Esquire
Germania Federal Building
809 Eastern Boulevard
Baltimore, Maryland 21221

Re: Petition Special Exception
NE/S of Ebenezer Road, 350' NW of
Bird River Road - 15th Election
District
Raymond Biensach, et ux, Petitioners
Case No. 84-65-X

Gentlemen:

I have this date passed my Order in the above referenced matter in accordance with the attached.

Sincerely,

Arnold Jablon
ARNOLD JABLON
Zoning Commissioner

AJ/srl

Attachments

cc: John W. Hessian, III, Esquire
People's Counsel



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

January 31, 1984

Phyllis Cole Friedman
People's Counsel for Baltimore County
Room 223, Courthouse
Towson, Maryland 21204

Re: Case No. 84-65-X
Raymond Biensach

Dear Ms. Friedman:

Enclosed herewith is a copy of the Order of Dismissal passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith I. Eisenhart
Edith I. Eisenhart,
Adm. Secretary

Encl.

cc: Robert J. Romadka, Esquire
John B. Contrum, Esquire
Raymond Biensach, et ux
N. E. Gerber
J. G. Hoswell
A. Jablon
Jean M. H. Jung
J. E. Dyer
Herb Newberry

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204
November 17, 1983

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 84-65-X

RAYMOND BIENSACH, ET UX

NE/S Ebenezer Rd., 350' NW of Bird River Rd.

15th District

SE-for agricultural support uses, etc.

9/7/83 - Z.C.'s Order - GRANTED

ASSIGNED FOR:

THURSDAY, FEBRUARY 16, 1984, at 10 a.m.

cc: Robt. Romadka, Esq.

Counsel for Petitioner

Raymond Biensach, et ux

Petitioners

Herb Newberry

People's Counsel

J. W. Hessian, Esq.

People's Counsel

N. Gerber

J. Hoswell

A. Jablon

J. Jung

J. Dyer

June Holmen, Secy.

November 15, 1983

Baltimore County
Board Of Appeals
Towson Court House Room 200
Towson Maryland 21204.

Would you please give me the date and time of the hearing of my next door neighbor Mr Ray Beinsack on Ebenexer Road. The case as the zoning sign reads Case #84-65-X. Thank you for your kindness.
Herb Newberry

11/17/83 - Following were notified of hearing set for Thurs. Feb. 16, 1984, at 10 a.m.:

R. Romadka
Raymond Biensach, et ux
J. Hessian
N. Gerber and J. Hoswell
A. Jablon, J. Jung, J. Dyer
Herb Newberry

BALTIMORE COUNTY, MARYLAND

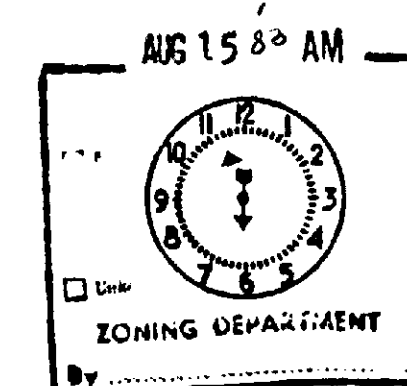
INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Zoning Commissioner
DATE: August 12, 1983
FROM: Norman E. Gerber, Director
Office of Planning and Zoning
SUBJECT: Raymond Biensach
et ux 84-65-X

This office is supportive of the farm related uses here; however, details of paving and computations of parking needs, standard width of access to Ebenezer Road, etc., are missing from the plan reviewed by this office. Finally, the Division of Current Planning and Development should be contacted by the petitioner concerning the need for a CRG meeting.

Norman E. Gerber
Norman E. Gerber
Director of Planning and Zoning

NEG:JGH:cav



August 3, 1983

Robert J. Romadka, Esquire
John B. Contrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

NOTICE OF HEARING

Re: Petition for Special Exception
NE/S Ebenezer Rd., 350' NW of
Bird River Road
Raymond Biensach, et ux - Petitioners
Case No. 84-65-X

TIME: 10:30 A.M.

DATE: Wednesday, August 31, 1983

PLACE: Room 106, County Office Building, 111 West Chesapeake
Avenue, Towson, Maryland

Arnold Jablon
Zoning Commissioner
of Baltimore County

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 117381

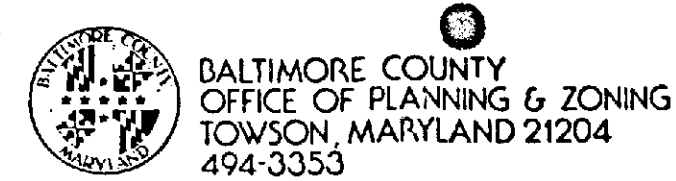
DATE: 5/29/83 ACCOUNT: 01-615-000

AMOUNT: 100.00

RECEIVED FROM: Robert J. Romadka
FOR: Filing Fee for Item #254

8 8310*****108010 8768F

VALIDATION OR SIGNATURE OF CASHIER



John B. Gontrum, Esquire
809 Eastern Boulevard
Baltimore, Maryland 21221

Re: Petition for Special Exception
NE/S Ebenezer Rd., 350' NW of Bird
River Rd.
Raymond Bienschach, et ux - Petitioners
Case No. 84-65-X

This is to advise you that \$74.72 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

Sincerely,

ARNOLD JABLON
Commissioner

ing-Commissioner

No. 121503

AMOUNT \$74.72

C 643*****74721b 2116A

District: 15 Date of Posting: 11/16/33
 Posted for: Grand J. Appels
 Petitioner: Rogers and Bremer, et al
 Location of property: W. 15. N. 15. E. 35.0' NW 1/4
Black River Rd.
 Location of Signs: Facing E. 15.0' at entrance
back to property
 Remarks:
 Posted by: Grand J. Appels Signature
 Number of Signs: 1 Date of return: 11/10/33

No 122959

AMOUNT **\$105.00**

FOR: Appeal on Case #84-65-X (Raymond Biensach, et ux)

C 021000001050010 8282A

VALIDATION OR SIGNATURE OF CASHIER

District 15 Date of Posting 9/15/33
 Posted for William J. Williams
 Petitioner: Benjamin Williams, et al
 Location of property: N.E. 1/3, Chandler Rd., 750 NW
of Bush River, Cal.
 Location of Signs: front of property (6150.66sq.
ft.)
 Remarks:
 Posted by Wm. J. Williams Date of return: 9/19/33
 Number of Signs: 1

FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet
	date	by	date	by	date	by	date	by	date
Descriptions checked and outline plotted on map									
Petition number added to outline									
Denied									
Granted by ZC, BA, CC, CA									

Reviewed by: ucn

Previous case: _____

Revised Plans:
Change in outline or description _____ Yes
_____ No

Map # NE 75, 9C

I fen # 259

Frank S. Lee
1277 Neighbors Ave
Baltimore, Md. 21237

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
7th day of June, 1983

ARNOLD JABLON
Zoning Commissioner

Petitioner Raymond Biensach, et ux Received by: Nicholas B. Commodari
 Petitioner's
 Attorney Romadka/Contrum, Esq. Chairman, Zoning Plans

**PETITION FOR SPECIAL
EXCEPTION**
16th Election District

ZONING: Petition for Special E
ception

LOCATION: Northeast side of E
cnesser Road, 350 ft. Northw
of Bird River Road

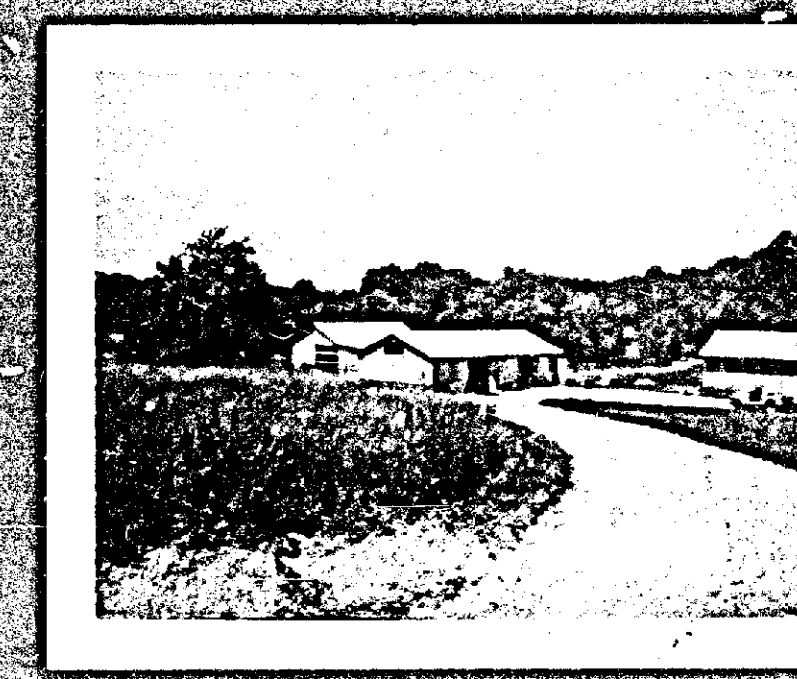
DATE & TIME: Wednesday, Aug
ust 11, 1963 at 10:30 A.M.

PUBLIC HEARING: Room 10
County Office Building, 111 W
Chesapeake Avenue, Towns
Maryland

TOWSON, MD., August 11, 1983

THE JEFFERSONIAN,
L. Lesak Smith
Manager.

Cost of Advertisement, \$ 31.50



**Petition For
Special
Exception**
16th Election District
ZONING Petition for
Special Exception
LOCATION: Northeast
side of Ebenezer Road, 350
ft. Northwest of Bird River
Road.

DATE & TIME:
Wednesday, August 31,
1988 at 10:30 A.M.

PUBLIC HEARING:
August 31, 1988 at 10:30 A.M.

as shown on plat plan filed
with "A" Zoning Depart-
ment.

Hearing Date: Wednes-
day, August 31, 1988 at
10:30 A.M.

Public Hearing: Room
106, County Office Build-
ing, 111 W. Chesapeake
Avenue, Towson,
Maryland.

BY ORDER OF
Arnold Johnson
Zoning Commissioner
Of Baltimore County

The Zoning Commission, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on a Petition for Special Exception for agricultural support uses, farm machinery sales, storage and service, feed or grain mill, fertilizer distributors or storage, farmers' sales or storage stand including use of farm produce and necessary products, on all that parcel of land in the Fifteenth District of

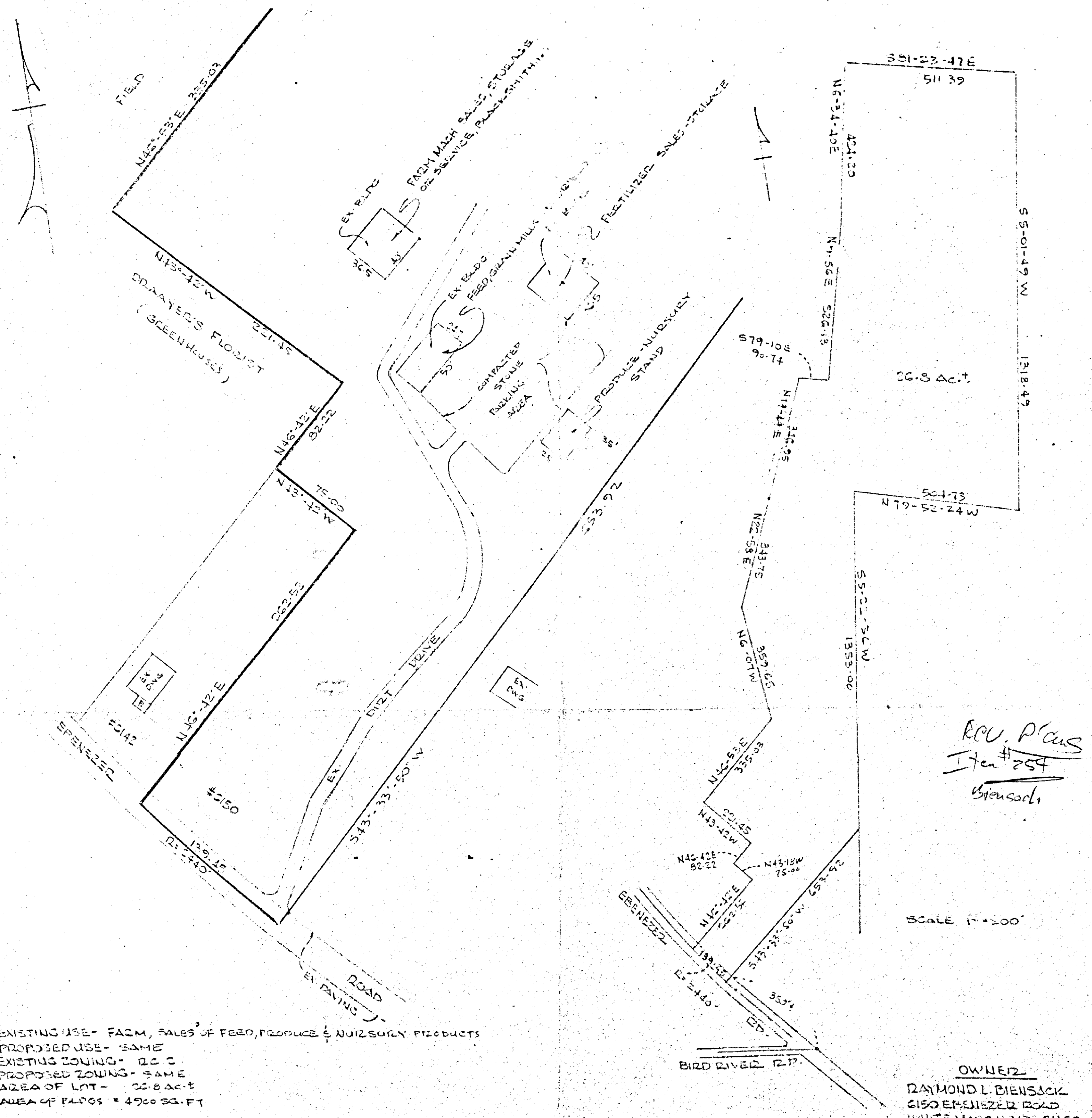
[illegible]

84-65-X

65-X 15th Di
NE/s Ebenezer Rd., 350' NW of Bird River Rd.

Raymond Biensach, et ux

1 SIGN



EXISTING USE - FARM, SALES OF FEED, PRODUCE & NURSERY PRODUCTS
 PROPOSED USE - SAME
 EXISTING ZONING - DC 2
 PROPOSED ZONING - SAME
 AREA OF LOT - 25.8 ac.
 AREA OF BLDGS. - 4900 SQ. FT.

PUBLIC WATER SERVICES LOT
 PRIVATE SEPTIC SYSTEM SERVICES LOT

FARMERS COOP ROADSIDE STAND INCLUDING SALES OF
 FARM PRODUCE AND NURSERY PRODUCTS

AGRICULTURAL SUPPORT USES

24. BILL 173-79

- a. FARM MACHINERY, SALES, STORAGE, OR SERVICE, BLACKSMITHING
- b. FEED OR GRAIN MILLS OR DRIERS
- c. FERTILIZER SALES OR STORAGE

PLAT TO ACCOMPANY PETITION FOR A SPECIAL EXCEPTION

OWNER
 RAYMOND L. BIENSACK
 6150 EMBLETT ROAD
 WHITE MARSH, MD. 21162
 335-7036

REVISED PLANS

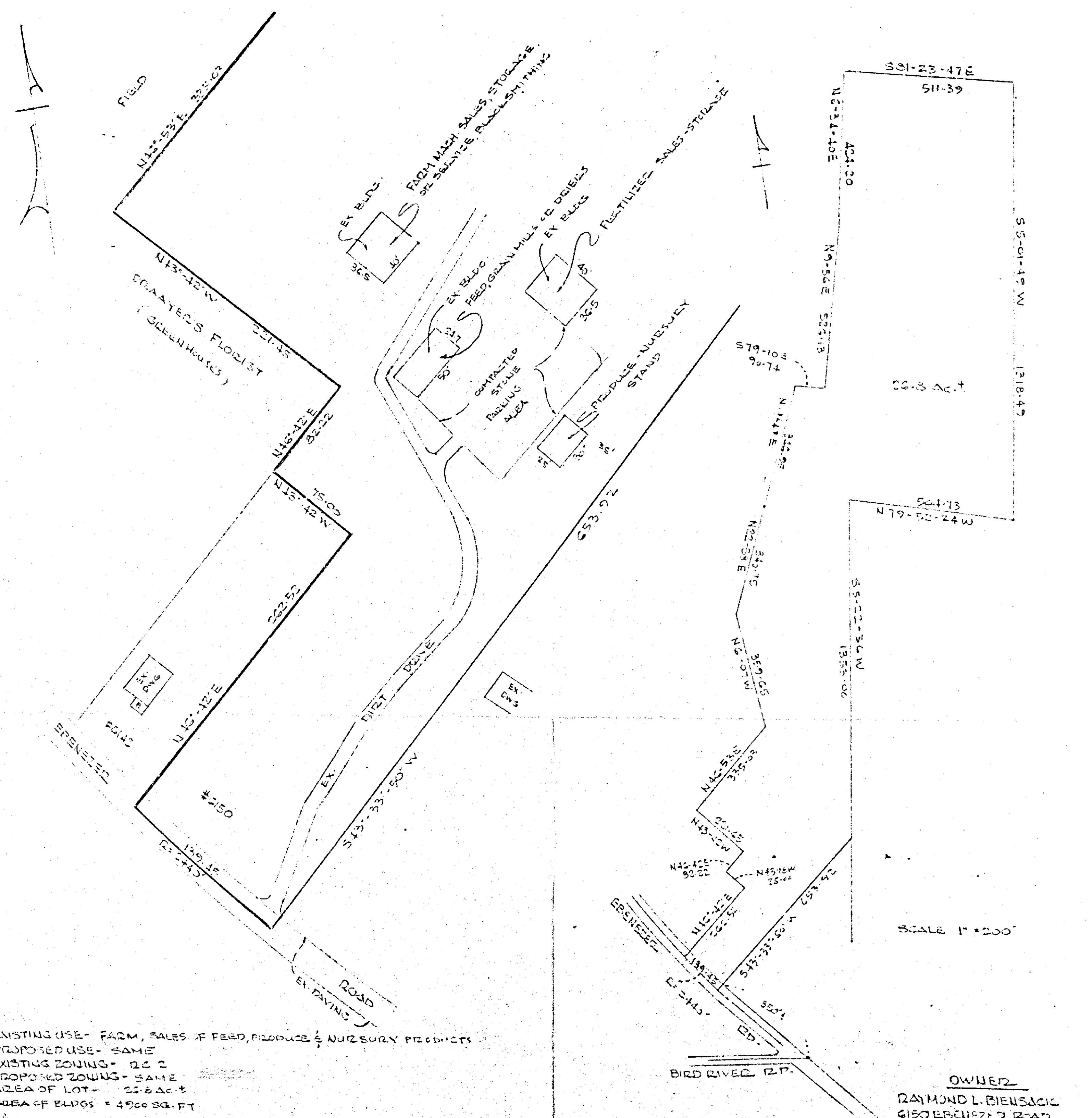
JUN 13 REC'D

Item #254



FRANK E. LEW
 1277 NEIGHBORS AVE.
 BALTIMORE, MD. 21202
 681-6922

15TH DISTRICT BALTIMORE CO., MARYLAND
 SCALE 1"=50'
 DATE 4-22-83
 REVISED 5-22-83



EXISTING USE - FARM, SALES OF FEED, PRODUCE & NURSERY PRODUCTS
 PROPOSED USE - SAME
 EXISTING ZONING - DC 2
 PROPOSED ZONING - SAME
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 AREA OF BLDGS. - 4900 SQ. FT.

PUBLIC WATER SERVICES LOT
 PRIVATE SEPTIC SYSTEM SERVICES LOT

FARMERS COOP ROADSIDE STAND INCLUDING SALES OF
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PLAT TO ACCOMPANY PETITION FOR A SPECIAL EXCEPTION

OWNER
 RAYMOND L. BIENSACK
 6150 EMBLETT ROAD
 WHITE MARSH, MD. 21162
 335-7036

MAP	40
SECTION	NE 75
DISTRICT	15
D-TS	4/16
TYPE	
HEAD-G.	X
BY	7/14
INHAL	
BY	

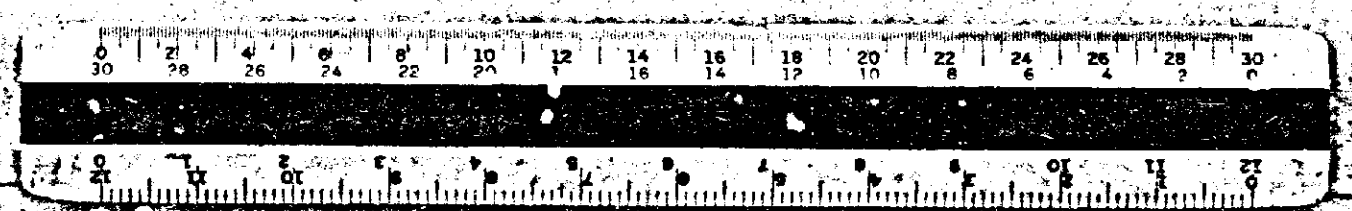
Old plat

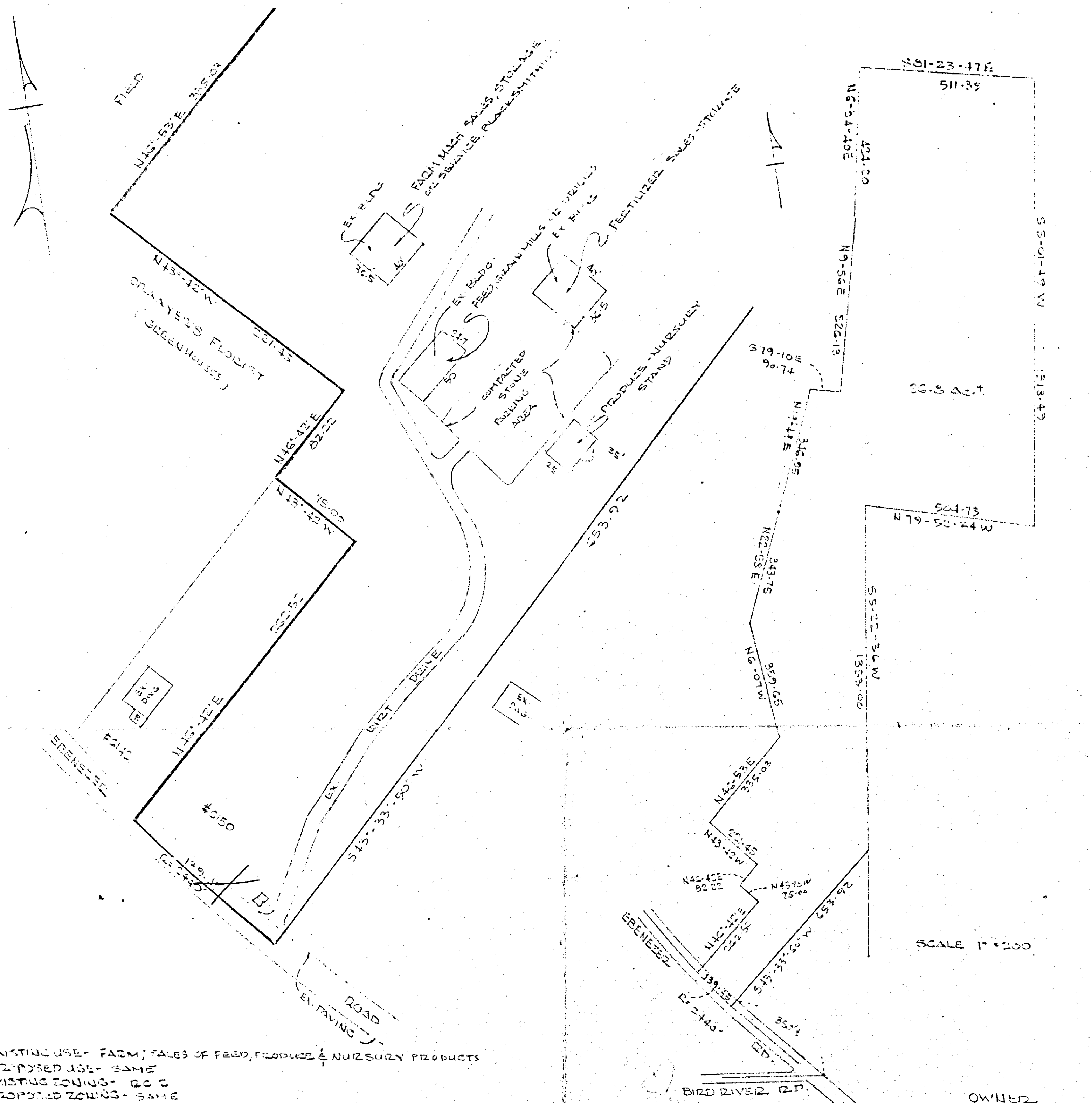
Item #254



FRANK E. LEW
 1277 NEIGHBORS AVE.
 BALTIMORE, MD. 21202
 681-6922

15TH DISTRICT BALTIMORE CO., MARYLAND
 SCALE 1"=50'
 DATE 4-22-83





EXISTING USE- FARM, SALES OF FEED, PRODUCE & NURSERY PRODUCTS
 PROPOSED USE- SAME
 EXISTING ZONING- R-2
 PROPOSED ZONING- SAME
 AREA OF LOT- 22.8 AC.±
 AREA OF FLOORS = 4900 SQ. FT.

PUBLIC WATER SERVICES LOT
 PRIVATE SEPTIC SYSTEM SERVICES LOT

FARMERS COOP ROADSIDE STAND INCLUDING SALES OF
 FARM PRODUCE AND NURSERY PRODUCTS

AGRICULTURAL SUPPORT USES

24. BILL 173-79

- FARM MACHINERY SALES, STORAGE, OR SERVICE, BLACKSMITHING
- FEED OR GRAIN MILLS OR DRIERS
- FERTILIZER SALES OR STORAGE

PLAT TO ACCOMPANY PETITION FOR A SPECIAL EXCEPTION

JUN 13 REC'D

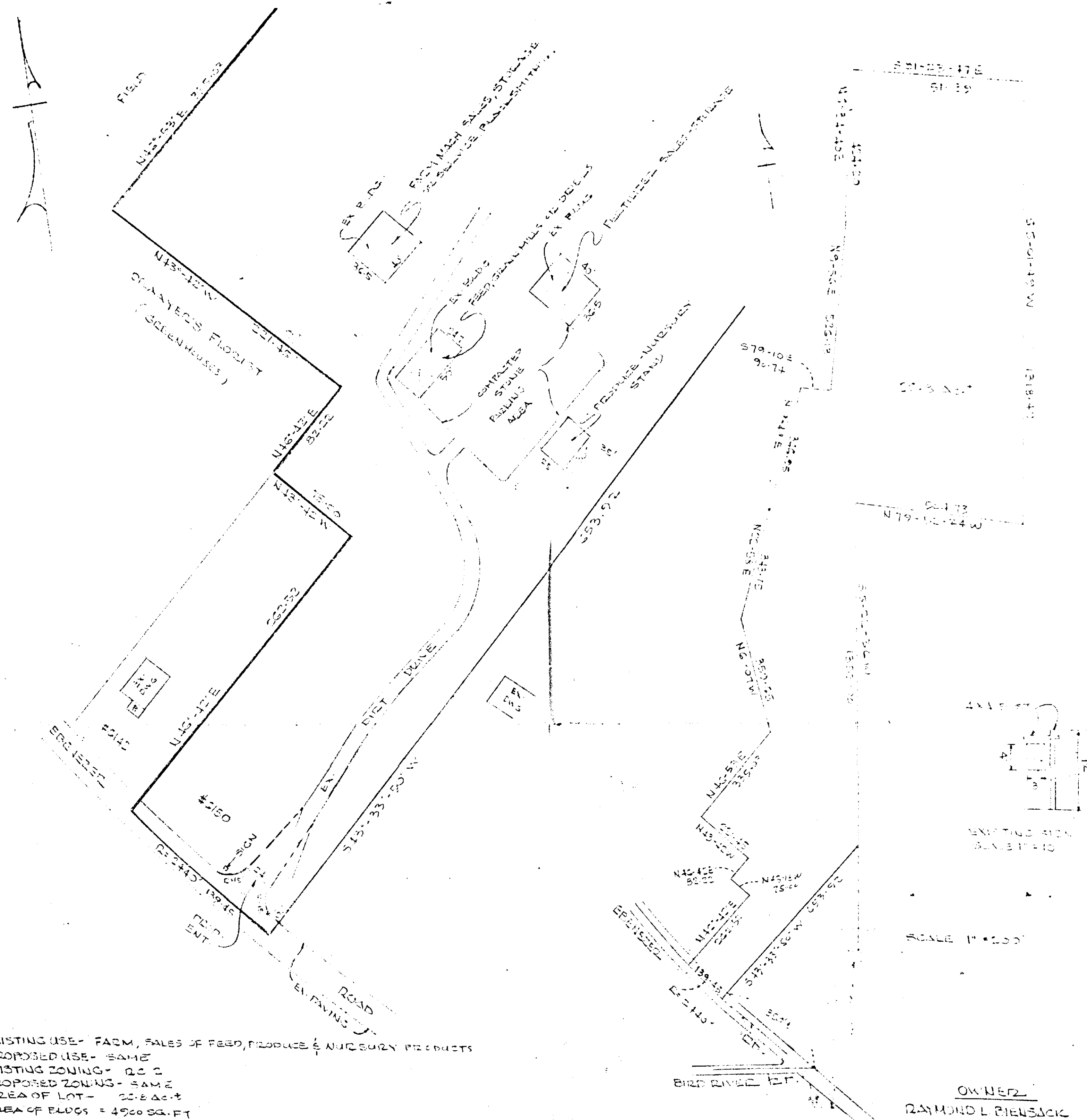
Tom 8251

LIBRARY
STATE OF MARYLAND

15TH DISTRICT BALTIMORE CO., MARYLAND
 SCALE 1"=50'
 DATE 4-22-83
 REVISED 5-26-83



FRANK S. LEE
 1277 NEIGHBORS AVE.
 BALTIMORE, MD. 21237
 681-6922



EXISTING USE- FARM, SALES OF FEED, PRODUCE & NURSERY PRODUCTS
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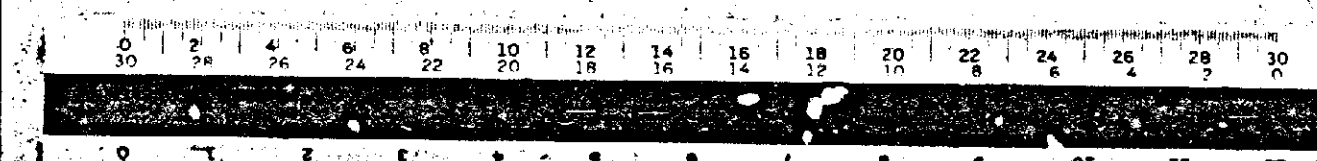
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AGRICULTURAL SUPPORT USES

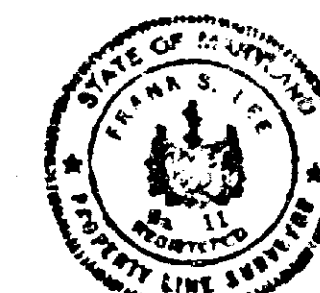
24. BILL 173-79

- FARM MACHINERY SALES, STORAGE, OR SERVICE, BLACKSMITHING
- FEED OR GRAIN MILLS OR DRIERS
- FERTILIZER SALES OR STORAGE

PLAT TO ACCOMPANY PETITION FOR A SPECIAL EXCEPTION



15TH DISTRICT BALTIMORE CO., MARYLAND
 SCALE 1"=50'
 DATE 4-22-83
 REVISED 5-26-83
 3-30-83



FRANK S. LEE
 1277 NEIGHBORS AVE.
 BALTIMORE, MD. 21237
 681-6922

84-69
PJ



Baltimore County, Maryland

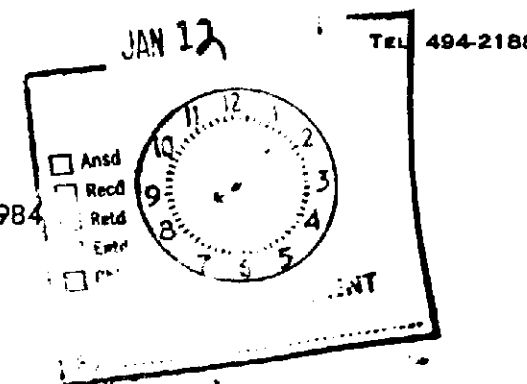
PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204

11/25/84
of law in file

JOHN W. HESSIAN, III
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

January 11, 1984



✓ Arnold Jablon, Esquire
Zoning Commissioner
and
James E. Dyer, Zoning Supervisor
County Office Building
Towson, Maryland 21204

RE: Raymond Biensach, et ux, Petitioners
Zoning Case No. 84-65-X (Item 254)

Messrs. Jablon and Dyer:

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I trust that this arrangement is acceptable also to your office. Unless you indicate otherwise, we shall so assume and proceed to dismiss the pending appeal within ten days.

Very truly yours,

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

Enclosure

cc: John B. Gontrum, Esquire
County Board of Appeals

PMZ:sh

LAW FIRM

Romadka, Gontrum, Hennegan & Foos

GERMANIA FEDERAL BUILDING
808 EASTERN BOULEVARD
ROCKE, MARYLAND 21221
TELEPHONE (301) 598-8274

ROBERT J. ROMADKA
JOHN B. GONTRUM
JOHN O. HENNEGAN
CHARLES E. FOOS, III
JOANNE M. PINEGAN

December 16, 1983

OF COUNSEL
ALFRED M. WALPERT

John W. Hessian, III
People's Counsel for Balto. County
Room 223, Court House
Towson, Maryland 21204

Re: Raymond Biensach, et ux
Case No. 84-65-X

Dear Mr. Hessian:

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Very truly yours,

John B. Gontrum
John B. Gontrum

JBG:pr

Consented to:

Raymond Biensach
Raymond Biensach

